

EXHIBIT 5

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANTEYA DANYELL WILLIAMS;)
MARY RUTH SCOTT; KAREN)
LATREECE COLEMAN; PRISCILLA)
BUNTON and ALYCE DENISE PAYNE,)
on behalf of themselves and all)
others similarly situated,)
)
 Plaintiffs,)
)
 vs.) NO. C08-02301 SBA
)
)
CITY OF ANTIOCH,)
)
 Defendant.)
)

DEPOSITION OF ARNE SIMONSEN

WALNUT CREEK, CALIFORNIA

JUNE 16, 2009

REPORTED BY:

Cynthia Bynum Palmer

CSR NO. 3556

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1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

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4 SANTEYA DANYELL WILLIAMS;)
5 MARY RUTH SCOTT; KAREN)
6 LATREECE COLEMAN; PRISCILLA)
7 BUNTON and ALYCE DENISE PAYNE)
on behalf of themselves and)
all others similarly situated,))
Plaintiffs,)
vs.)) NO. C08-02301 SBA
CITY OF ANTIOCH,)
Defendants.)
_____)

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14 Deposition of ARNE SIMONSEN
15 taken on behalf of the plaintiffs
16 at McNamara, Dodge, Ney, Beatty,
17 Slattery, Pfalzer, Borges &
18 Brothers, LLP, 1211 Newell Avenue
19 Walnut Creek, California, beginning
20 at 2:31 p.m. and ending at 4:58 p.m.
21 on Tuesday, June 16, 2009, before
22 Cynthia Bynum Palmer, CSR No. 3556
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2 APPEARANCES:

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FOR THE PLAINTIFFS:

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LAWYERS COMMITTEE FOR CIVIL RIGHTS

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By: Oren M. Sellstrom, Esq.

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Kendra Fox-Davis, Esq.

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Priscilla Ocen, Esq.

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131 Steuart Street, Suite 400

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San Francisco, California 94105

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FOR THE DEFENDANT:

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1 THE VIDEOGRAPHER: Good afternoon. Here begins
2 the deposition of Mr. Arne Simonsen in the matter of
3 SanTeYa Danyelle Williams, et al. versus the City of
4 Antioch. This case is filed in the United States
5 District Court, Northern California, and the case No. is
6 C08-02301 SBA.

7 Today's date is June 16th, 2009, and the time is
8 2:31 p.m. This deposition is taking place at McNamara,
9 Dodge, Ney, Beatty, Slater (sic.) and Pfalzer, located at
10 1211 Newell Avenue, Walnut Creek, California, 94596.

11 It is being taken on behalf of the plaintiffs.
12 The reporter is Cindy Palmer appearing on behalf of
13 U.S. Legal Support.

14 The videographer is Sean Grant, also appearing
15 on behalf of U.S. Legal Support.

16 Counsel, please identify yourselves and state
17 whom you represent.

18 MR. SELLSTROM: Oren Sellstrom for the
19 plaintiffs.

20 MS. FOX-DAVIS: Kendra Fox-Davis for plaintiffs.

21 MS. OCEN: Priscilla Ocen, for the plaintiffs.

22 MR. BEATTY: Thomas Beatty for the defendant,
23 and by the way, it's Slattery, S-l-a-t-t-e-r-y. Good
24 Irish name.

25 THE VIDEOGRAPHER: Sorry. Thank you.

1 Would the reporter please swear in the witness.

2 ARNE Simonsen,

3 having been first duly sworn, was examined and testified
4 as follow:

5 THE VIDEOGRAPHER: Counsel?

6 EXAMINATION BY MR. SELLSTROM

7 Q Good afternoon, Mr. Simonsen. Have you ever
8 been deposed before?

9 A No.

10 Q And have you had a chance to review basic
11 deposition practice with your counsel?

12 A Yes.

13 Q Let me go over some of the ground rules with you
14 as well just so, we make sure we're all on the same page
15 here.

16 You understand that the oath that you just took
17 requires you to testify truthfully and accurately?

18 A Yes.

19 Q All right. And, as you are doing, because the
20 court reporter is taking down what you and I and anyone
21 else says today, it's important that you speak audibly
22 and then if your answer is yes, for instance, then you
23 say "yes" instead of just nodding your head.

24 Do you understand that?

25 A Yes.

1 that's something that certainly is within their right to
2 do.

3 Q Okay. And you --

4 A As a grievance against the government. Yeah.

5 Q You mentioned the Quality of Life Forums.

6 A Uh-huh.

7 Q And that's -- that was an opportunity for you as
8 a councilman to hear public comment on -- on what issues?

9 A On any issue. It was essentially a town hall
10 meeting where people could come and talk about anything
11 they wanted, whether it was pot holes, road repairs, why
12 isn't BART out in Antioch at this point, why are we
13 bringing in more businesses, why are we building too many
14 houses, the whole thing, including those that got up and
15 complaints about rental units and tenants and Section 8
16 housing was mentioned at the same too.

17 Q And so you recall hearing in those forums as
18 well complaints from constituents about Section 8 voucher
19 holders living in expensive houses?

20 A Correct.

21 Q And did you to your recollection in those forums
22 ever make the point that you were making earlier in this
23 deposition that just because somebody is living in an
24 expensive home does not necessarily mean that they are
25 being fraudulent in any way?

1 MS. FOX-DAVIS: It's in there now. I don't --

2 MS. SELLSTROM: Okay. It's one of the disks
3 that was marked yesterday that's -- that's in the
4 computer, and it's from the Quality of Life Forum IV and
5 starting -- do we know what it's starting at?

6 MS. FOX-DAVIS: Starting at about 22:04.

7 MR. SELLSTROM: Okay. Starting at approximately
8 22 minutes and four seconds into the disk.

9 THE WITNESS: Which was the date of this,
10 please?

11 MR. SELLSTROM: January 27th.

12 MS. FOX-DAVIS: 2007.

13 MS. SELLSTROM: 2007.

14 THE WITNESS: Okay.

15 (Disk played.)

16 Q (By Mr. Sellstrom) Do you recall -- do you
17 recall that forum?

18 A Now I -- now I do. It brings it back. I
19 remember that was the one that was over at the
20 Nick Rodriguez Center I believe it was. Yeah.

21 Q Okay. Do you recall making that statement
22 that's reflected in the tape we just saw?

23 A Uh-huh. Now that I've been refreshed watching
24 myself. Absolutely.

25 Q Yes, and that's why we brought it here, to do

1 that.

2 That suggests civil disobedience in terms of
3 standing up and saying we won't accept Section 8 people
4 living in homes that have pools, Jacuzzis, and so forth?

5 A Yes, and actually civil disobedience has been
6 the hallmark of American society, and you learn that from
7 a lot of good civil rights leaders.

8 Q And what is -- civil disobedience means to you
9 going against the law because it's something that you
10 don't believe in? Is that -- or let -- is that an
11 accurate way to say that?

12 A It would depend on what the law you're trying
13 to -- you know, civil disobedience could be in this case
14 here is saying, you know, there are people that are
15 upset. Is this is the right way to have this program,
16 you know.

17 The objective there was to get the state or the
18 federal government to be able to look at the program,
19 what is the requirements of the program to get it --
20 maximum use of the program to as many people as possible,
21 and use the money wisely, and is it appropriate as I was
22 in Military housing which was four walls and a roof and a
23 bathroom and we didn't have swimming pools, hot tubs, and
24 all the other stuff that comes along with it and,
25 frankly, saying we should give the basic shelter to give

1 these people and their families a safe place to live to
2 give them a helping hand up, and if it requires civil
3 disobedience to get the federal government or the state
4 government to change the law so that we can maximize this
5 program for as many people as possible, sure, that's --
6 that's what I would call civil disobedience.

7 Q And is it fair that to say that that suggestion
8 by you that the city should engage in civil disobedience
9 was born out of frustration with the issues that you were
10 hearing from your constituents about the Section 8
11 program?

12 A The city wouldn't be doing the civil
13 disobedience. It was the individuals that you're
14 referring to. The city is not a Housing Authority. The
15 city has no control over the Housing Authority over the
16 HUD Housing Choice Voucher Program, and all we do is
17 individuals and those were individual residents as I
18 pointed out. Ellen Tauscher was our Congress person.
19 Well, not for much longer I guess, and she has been very
20 responsive to -- at that time to the concerns that were
21 being brought up by residents in the city of Antioch that
22 yes, there may be some changes that need to be made in
23 the program, and that's what I was advocating for, was
24 changes, but the city of Antioch can't civilly -- you
25 know, do any civil disobedience as a city or as a

1 That's -- that's individuals.

2 Q Right.

3 A Yeah.

4 Q And you -- but in answer to my question, did
5 you -- were you concerned that issues of race were a part
6 of the discussion that was happening at the
7 Quality of Life Forums?

8 A Yes. I was very uncomfortable with it.

9 Q What -- were there specific comments that made
10 you very uncomfortable?

11 A I grew up in San Francisco, which was a very
12 cosmopolitan city, and in Daly City, and I didn't know
13 what racism was and prejudice was until I was in the Navy
14 and transferred to Baltimore, Maryland for a school when
15 I was exposed to something outside of California, and I
16 didn't know what was wrong with these people, so to me as
17 someone who grew up not knowing what racism was or
18 prejudice as the term as being prejudiced against races
19 or even religions for that matter, I was -- I was more
20 like "What's wrong with you people? I don't understand
21 that," you know, and I'm that way to this very day.
22 There are some people that are just plain pure bigots,
23 and I feel sorry for 'em. That's reality.

24 Q And you had concerns that some of those issues
25 were being raised at the Quality of Life Forum?

1 everything they did? No, because my employee is the city
2 manager and the city attorney. I don't meddle in the
3 departments, if there are things I have concerns about
4 with those departments I'll either go to the city manager
5 or go to the city attorney with those concerns, you know.

6 Q Is it fair to say that, umm, nothing that you
7 heard or saw about the CAT team raised concerns that
8 caused you to go to the city manager with those concerns?

9 A Not until closed session when the city attorney
10 advised us there was potential litigation. Yeah.

11 Q You had testified earlier about the -- some of
12 the comments and the tenor of the Quality of Life Forums
13 that gave you some discomfort because of racial overtones
14 I believe you said.

15 A Uh-huh.

16 Q Umm, did that -- did that concern you that those
17 same, umm, issues could infiltrate a complaint-driven
18 process as -- which is as you viewed the CAT team?

19 MR. BEATTY: Vague -- vague and ambiguous.

20 THE WITNESS: Yeah. I don't understand the --
21 the last portion of your question.

22 Q (By Mr. Sellstrom) That -- I mean you testified
23 that -- is that a -- do you have a concern that in a
24 complaint-driven process that's reactive that there is
25 the possibility that bias can infect that process?

1 State of California)
2 County of Sacramento)
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I, CYNTHIA BYNUM PALMER, CSR, hereby certify
that the witness in the foregoing deposition was by me
duly sworn to testify to the truth, the whole truth, and
nothing but the truth in the within-entitled cause; that
said deposition was taken at the time and place herein
named; that the deposition is a true record of the
witness's testimony as reported to the best of my ability
by me, a duly Certified Shorthand Reporter and
disinterested person, and was thereafter transcribed
under my direction into typewriting by computer; that the
witness was given an opportunity to read, correct, and
sign the deposition.

I further certify that I am not interested in
the outcome of said action nor connected with nor related
to any of the parties in said action nor to their
respective counsel.

IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 27th day of June, 2009.

Cynthia Bynum Palmer CSR

CYNTHIA BYNUM PALMER, CSR 3556